

I certify that the attached is a true and correct copy of HB 2188, which was filed of record on MAR 13 1981 and referred to the committee on:

Employment Prac.

Boyle Murray
Chief Clerk of the House

MAR 13 1981

By Cris

H.B. No. 2188

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and inspection of boilers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 436, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 5221c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. Unless otherwise specifically exempted in this Act, all boilers operated within the State shall be registered with the Department of Labor and Standards. In addition, such boilers shall not be operated unless they have satisfactorily passed a Certificate Inspection and have qualified for a Certificate of Operation. The Certificate of Operation shall remain in full force and effect until expiration unless cancelled for cause by the Commissioner and shall be placed under glass in a conspicuous place on or near the boiler for which it is issued. No prosecution shall be maintained where the issuance of or the renewal of such Certificate of Operation shall have been requested and shall remain unacted upon. However, if the operation of such boiler without a Certificate of Operation shall constitute a serious menace to the life and safety of any person or persons in or about the premises, the Commissioner, as hereinafter provided for, shall apply to the District Court in a suit brought by either the Attorney General of the State, or any District or County Attorney, in the county in which such boiler is located, for an injunction restraining the

1 operation of said boiler until the unsafe condition restraining its
2 use shall be corrected and a Certificate of Operation issued. In
3 all such cases it shall not be necessary for the attorney bringing
4 the suit to verify the pleadings or for the State to execute a bond
5 as a condition precedent to the issuing of any injunction or
6 restraining order hereunder. The affidavit of the Commissioner
7 that no application for or no Certificate of Operation exists for
8 such boiler, and the affidavit of the Chief Inspector or any Deputy
9 Inspector that its operation constitutes a menace to the life and
10 safety of any person or persons in or about the premises, shall be
11 sufficient proof to warrant the immediate granting of a temporary
12 restraining order. The Commissioner may revoke any Certificate of
13 Operation issued for a boiler within this State after good cause is
14 shown and after notice and opportunity for a hearing on the
15 revocation.

16 SECTION 2. Section 4a, Chapter 436, Acts of the 45th
17 Legislature, Regular Session, 1937, as amended (Article 5221c,
18 Vernon's Texas Civil Statutes), is amended to read as follows:

19 Sec. 4a. Upon the approval of the Commissioner and the
20 inspection agency having jurisdiction, the interval between
21 internal inspections may be extended to a period not to exceed
22 twenty-four (24) months for power boilers and forty-eight (48)
23 months for waste heat boilers and for other unfired steam boilers
24 using heat resulting from the operation of a process system, the
25 interval may be extended to the next scheduled down time, but not
26 to exceed 60 months provided: (1) continuous water treatment under
27 competent and experienced supervision has been in effect since the

1 last internal inspection for the purpose of controlling and
2 limiting corrosion and deposits; (2) accurate and complete records
3 are available showing that since the last internal inspection
4 samples of boiler water have been taken or monitored at regular
5 intervals not greater than twenty-four (24) hours of operation and
6 that the water condition in the boiler is satisfactorily
7 controlled; (3) accurate and complete records are available showing
8 the dates such boiler has been out of service and the reasons
9 therefor since the last internal inspection, and such records shall
10 include the nature of all repairs to the boiler, the reasons why
11 such repairs were made; and (4) the last internal and current
12 external inspection of the boiler indicates the inspection period
13 may be safely extended. The Commissioner and inspection agency
14 having jurisdiction may grant an additional extension for up to 120
15 days to the inspection interval covered by the Certificate of
16 Operation on receipt of a request stating that an emergency exists.
17 However, before an extension is allowed, the Authorized Inspector
18 shall make an external inspection and items (1) through (4) of this
19 Section must be complied with. When such an extended period
20 between internal inspections has been approved by the Commissioner
21 and the inspection agency having jurisdiction, as outlined in this
22 Section, a new Certificate of Operation shall be issued for that
23 extended period of operation.

24 SECTION 3. Section 10, Chapter 436, Acts of the 45th
25 Legislature, Regular Session, 1937, as amended (Article 5221c,
26 Vernon's Texas Civil Statutes), is amended to read as follows:

27 Sec. 10. The Commissioner may cause the inspection provided

1 for in this Act to be made either by the Chief Inspector, a Deputy
2 Inspector, or an Authorized Inspector. However, Authorized
3 Inspectors shall be continuously employed by an insurance company
4 and shall first obtain from the Commissioner a Texas commission as
5 an inspector of boilers. The Commissioner is vested with full
6 power and authority to determine the qualifications (by written
7 examination) of any applicant seeking a commission as inspector.
8 The Commissioner may accept, after proper investigation, the
9 commission issued to an inspector by any other jurisdictional
10 authority having a written examination equal to that of the State
11 of Texas. The Commissioner may rescind for good cause, any Texas
12 commission issued to any person. [~~The-Commissioner-may-revoke--any~~
13 ~~Certificate--of--Operation--issued-for-any-boiler-within-this-State~~
14 ~~upon--good--cause--being--shown--therefor--and--after--notice---and~~
15 ~~opportunity-for-hearing-thereon-~~]

16 SECTION 4. This Act takes effect September 1, 1981.

17 SECTION 5. The importance of this legislation and the
18 crowded condition of the calendars in both houses create an
19 emergency and an imperative public necessity that the
20 constitutional rule requiring bills to be read on three several
21 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1ST PRINTING

F

By Criss

H.B. No. 2188

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operation of said boiler until the unsafe condition restraining its use shall be corrected and a Certificate of Operation issued. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute a bond as a condition precedent to the issuing of any injunction or restraining order hereunder. The affidavit of the Commissioner that no application for or no Certificate of Operation exists for such boiler, and the affidavit of the Chief Inspector or any Deputy Inspector that its operation constitutes a menace to the life and safety of any person or persons in or about the premises, shall be sufficient proof to warrant the immediate granting of a temporary restraining order. The Commissioner may revoke any Certificate of Operation issued for a boiler within this State after good cause is shown and after notice and opportunity for a hearing on the revocation.

SECTION 2. Section 4a, Chapter 436, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 5221c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4a. Upon the approval of the Commissioner and the inspection agency having jurisdiction, the interval between internal inspections may be extended to a period not to exceed twenty-four (24) months for power boilers and forty-eight (48) months for waste heat boilers and for other unfired steam boilers using heat resulting from the operation of a process system, the interval may be extended to the next scheduled down time, but not to exceed 60 months provided: (1) continuous water treatment under competent and experienced supervision has been in effect since the

1 last internal inspection for the purpose of controlling and
2 limiting corrosion and deposits; (2) accurate and complete records
3 are available showing that since the last internal inspection
4 samples of boiler water have been taken or monitored at regular
5 intervals not greater than twenty-four (24) hours of operation and
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23 extended period of operation.

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25 Legislature, Regular Session, 1937, as amended (Article 5221c,
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for in this Act to be made either by the Chief Inspector, a Deputy Inspector, or an Authorized Inspector. However, Authorized Inspectors shall be continuously employed by an insurance company and shall first obtain from the Commissioner a Texas commission as an inspector of boilers. The Commissioner is vested with full power and authority to determine the qualifications (by written examination) of any applicant seeking a commission as inspector. The Commissioner may accept, after proper investigation, the commission issued to an inspector by any other jurisdictional authority having a written examination equal to that of the State of Texas. The Commissioner may rescind for good cause, any Texas commission issued to any person. [~~The-Commissioner-may-revoke--any Certificate--of--Operation--issued-for-any-boiler-within-this-State upon--good--cause--being--shown--therefor--and--after--notice---and opportunity-for-hearing-thereon-~~]

SECTION 4. This Act takes effect September 1, 1981.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

4-14-81
(date)

Sir:

We, your COMMITTEE ON EMPLOYMENT PRACTICES, to whom was referred HB 2188, have had the same under consideration and beg to report back with the recommendation that it (measure)

- (X) do pass, without amendment.
- () do pass, with amendment(s).
- () do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes () no

An author's fiscal statement was requested. () yes (X) no

An actuarial analysis was requested. () yes (X) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or (Consent) Calendar.

This measure () proposes new law.
(X) amends existing law.

House Sponsor of Senate Measure _____.

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Jackson, Ch.	✓			
Criss, V.C.	✓			
Watson, C.B.O.	✓			
Blythe, C.S/C				✓
Hinojosa				✓
Leonard	✓			
Messer	✓			
Presnal				✓
Riley	✓			

Total
6 aye
0 nay
0 present, not voting
3 absent

Lee Jackson
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information

Currently Sec. 2, Art. 5221c, Revised Civil Statutes of Texas, provides for the certification of boiler operation. It further provides that no prosecution shall be maintained where the issuance or renewal of such certificate shall have been requested but unacted upon. It does, however, provide that if the operation of a boiler without a certificate of operation is a serious menace, the Commissioner of the Texas Department of Labor and Standards may through an action of the District Court enjoin the use of such boiler. Additionally, Sec. 4a of Art. 5221c provides for intervals between boiler inspections and provides for the interval to be extended to the next scheduled down time if certain monitoring activities have been maintained. Sec. 10 of Art. 5221c designates those authorized to make inspections and provides that the Commissioner may revoke any certificate of operation upon good cause being shown and after notice and an opportunity for hearing has been given.

Purpose and Synopsis

The purpose of this act is to move the provisions granting the Commissioner the right to revoke a certificate of operation for any boiler in the state for good cause and after notice and the opportunity for hearing has been given from Sec. 10 of Art. 5221c to Sec. 2 of that article. Further, this legislation provides that the Commissioner and inspection agency may grant an additional extension of up to 120 days to the inspection interval upon the receipt of a request stating that an emergency exists, if an authorized inspector makes an external inspection and determines that the monitoring activities set out in Sec. 4a of Art. 5221c have been complied with. This act shall take effect September 1, 1981, and creates an emergency.

Rulemaking Authority

This legislation confers no rulemaking authority on any state agency.

Summary of Committee Action

Having been referred to a special subcommittee and notice having been given in accordance with the House rule HB 2188 was heard at a formal meeting and by a vote of 3 ayes and 0 nays was reported to the Committee on Employment Practices on April 6, 1981.

Notice having been given in accordance with the House rules a public hearing of the Committee on Employment Practices was held on April 14, 1981, and by a vote of 6 ayes and 0 nays was reported out favorably with the recommendation that it be placed on the Consent Calendar

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 31, 1981

Honorable Lee F. Jackson, Chairman
Committee on Employment Practices
House of Representatives
Austin, Texas

In Re: House Bill No. 2188
By: Criss

Sir:

In response to your request pursuant to House Rules, Section 3.119, this office finds the fiscal implications of House Bill No. 2188 (relating to the regulation and inspection of boilers) to be as follows:

No fiscal implication or additional cost to the State or units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: LBB Staff: TK, JH, PA

By Criss

ENGROSSED
THIRD READING
H.B. No. 2188

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1 operation of said boiler until the unsafe condition restraining its
2 use shall be corrected and a Certificate of Operation issued. In
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SECTION 4. This Act takes effect September 1, 1981.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT FORM

Austin, Texas

5/29/81
Date of report to Senate

Honorable William P. Hobby
President of the Senate

Sir:

We, your Committee on Economic Development to which was referred
~~H~~ B. No. 2188 have had the same under consideration, and I am instructed to report it back to the Senate
with the recommendation that it do _____ pass _____ and be printed.

L. Harris
Chairman


Paper clip the original and one copy of this form to the original bill and retain one copy for your file.

**REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT**

Hon. Roy Blake, Chairman
Administration Committee

Sir:

Pursuant to S.R. 148, notice is hereby given that HB 2188, by: Brooks,
was heard by the Committee on Economic Development on 5/27, 1987,
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.


Chairman of the reporting committee

IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 7 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON ADMINISTRATION, ROOM G-27J. PLEASE CALL 5-1134 IF YOU HAVE ANY QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. MONDAYS.**

F

ENROLLED

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 21 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 2188

President of the Senate

Speaker of the House

I certify that H.B. No. 2188 was passed by the House on May 23, 1981, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2188 was passed by the Senate on May 31, 1981, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

H. B. No. 2188

By Cris

A BILL TO BE ENTITLED
AN ACT

relating to the regulation and inspection of boilers.

MAR 13 1981

1. Filed with the Chief Clerk.

MAR 19 1981

2. Read first time and Referred to Committee on

Employment Practices

APR 14 1981

3. Reported favorably (~~as amended~~) (~~as substituted~~) and sent to Printer at

APR 24 1981

2:45 pm

APR 24 1981

4. Printed and distributed at 5:34 pm

APR 27 1981

5. Sent to Committee on Calendars at CONSENT 8:10 am

MAY 23 1981

6. Read second time (~~amended~~); passed to third reading (~~failed~~) by (Non-Record Vote) (~~Record Vote of~~ years, nays, present, not voting)

7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ years, _____ nays, and _____ present, not voting.

MAY 23 1981

9. Read third time (~~amended~~); finally passed (~~failed~~) by (Non-Record Vote) (~~Record Vote of~~ years, nays, present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ years, _____ nays, and _____ present, not voting).

MAY 23 1981

12. Ordered Engrossed at 11:01 am

MAY 23 1981

13. Engrossed.

MAY 23 1981

14. Returned to Chief Clerk at 12:11 pm

MAY 23 1981

15. Sent to Senate.

Betty Murray

Chief Clerk of the House

MAY 23 1981

16. Received from the House

MAY 25 1981

17. Read, referred to Committee on ECONOMIC DEVELOPMENT

MAY 30 1981

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by

(a viva voce vote.)

(_____ years, _____ nays.)

1981 MAY 23 PM 12: 11
HOUSE OF REPRESENTATIVES

1981 MAY 24 PM 5: 34
SENATE

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

MAY 31 1981 Laid before Senate

_____ 23. Read second time _____ passed to third reading by:
(~~with record vote~~)
(31 yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

MAY 31 1981 25. Senate and Constitutional 3-Day Rules suspended by vote of 31 yeas,
0 nays to place bill on third reading and final passage.

MAY 31 1981 26. Read third time and passed by
(~~with record vote~~)
(31 yeas, 0 nays.)

OTHER ACTION: OTHER ACTION:

May 31, 1981 27. Returned to the House.

MAY 31 1981 28. Received from the Senate (~~with amendments~~)
(~~as substituted~~)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)
(Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 31 1981 32. Ordered Enrolled at 5: 31 pm

Betty King
Secretary of the Senate